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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,373	06/20/2003	Leslie W. Richards	CM-101US	8509
24314	7590	08/10/2005	EXAMINER	
JANSSON, SHUPE & MUNGER & ANTARAMIAN, LTD 245 MAIN STREET RACINE, WI 53403			HECKENBERG JR, DONALD H	
			ART UNIT	PAPER NUMBER
			1722	

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/600,373

Applicant(s)

RICHARDS, LESLIE W.

Examiner

Donald Heckenberg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-14 and 23-25 is/are allowed.
- 6) ☒ Claim(s) 1-11 and 15-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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1. The following is a quotation of the first paragraph of 35

U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-11 and 15-22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

It is initially noted the originally filed disclosure of the instant application does not recite or define the term "immovably affixed." Thus, in order to determine if the term is enabled by the originally filed specification, the definition and scope of the term as it is now being used in the claims must be discerned.

Webster's dictionary defines "immovable" as "incapable of being moved."<sup>1</sup> The dictionary defines "affixed" as "to attach physically [i.e.] a stamp to a letter."<sup>2</sup> Thus, the ordinary

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<sup>1</sup> Merriam-Webster's Collegiate Dictionary, 10 ed., 580 (1999).

<sup>2</sup> Id. at 20.

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meaning of the term "immovably affixed" would be that the objects are attached in a way that movement between the two is impossible upon application of any force. As a large enough force could theoretically separate any two objects, and thereby nothing is fully "immovable" the most reasonable interpretation of the terminology, especially with respect to a claimed apparatus structure, is that the parts "immovably affixed" cannot be separated without altering some structure- that is, the parts are immovably affixed together in that they will not move apart without the structure of the individual parts being altered such as part of a structure breaking apart from another part of the same structure.

Applicant's use of the term to distinguish the references cited in the previous Office Action is consistent with such an interpretation of "immovably affixed." Applicant argues that the base and fin components disclosed in JP '046 and JP '770 are movable and not affixed (and hence, not "immovably affixed"). Taking JP '046 as an example, the fin and base are clearly frictionally "affixed" to a certain degree with teeth 3a, and thus immovable to a point, and obviously the structure would not work for its purpose if there was not at least some degree of affixing between the components. Applicant's assertion that the references fail to teach or suggest the device defined in the

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claims of the instant application because the fin and base member are "immovably affixed" therefore indicates the term requires more than a certain degree of connection between the fin and base member- but rather that the two cannot be separated without altering the structure of these components.

With the term "immovably affixed" defined as such, claims 1-11 and 15-22 are not enabled by the originally filed disclosure instant application, and thus present new matter. The disclosure does not define an immovable affixture relationship between the base and fin member such that the two cannot be separated with altering these elements structure.

Applicant's arguments filed in response to the last Office Action refer to various sections of the specification for support of the terminology "immovably affixed." Applicant notes that page 5, being at line 5 the fin engaging base member is "dimensioned snugly engage the base-member-engaging portion of the fin." Applicant further notes that the specification "snugly" defines "pressure fits and tolerance fits" and argues that these are known to create an immovable relationship.

This portion of the specification does provide support for the term "immovably affixed." An object can be of "snugly" engaged to another, by "pressure fit" or "tolerance fit" without being "immovable." A greater force may be required to remove

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the object depending on the degree of engagement, but these terms do not necessitate an "immovably affixed" relationship between the parts as that term is used in the claims.

Applicant also asserts that the specification at page 6, lines 5-6 describing that the "fin is in tight mechanical engagement with the base portion" and at page 12 with reference to a "low tolerance pressure fit" and "interlocking engagement" support the term "immovably affixed" as the term is used in the claims of the instant application.

Again these portions of the specification do not necessitate an "immovably affixed" relationship between the parts as that term is used in the claims. A base and fin member can be in "tight mechanical engagement" or "interlocking engagement," but still be separable upon application of a significant force.

3. Applicant's arguments with respect to claims 1-11 and 15-22 and the prior art have been considered but are moot in view of the new grounds of rejection. Note the response to the arguments with respect to the terminology "immovably affixed" described above.

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4. Claims 12-14 and 23-25 are allowed. See the reasons for indicating allowable subject matter in the previous Office Action.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Heckenberg whose telephone number is (571) 272-1131. The examiner can normally be reached on Monday through Friday from 9:30 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith, can be reached at (571) 272-1166. The official fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <<<http://pair-direct.uspto.gov>>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

  
Donald Heckenberg  
Primary Examiner  
A.U. 1722

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